

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on February 5, 2001 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Jon Ellingson (D)
Sen. Jim Elliott (D)
Sen. Alvin Ellis Jr. (R)
Sen. Sam Kitzenberg (R)
Sen. Don Ryan (D)
Sen. Debbie Shea (D)
Sen. Mike Sprague (R)
Sen. Mignon Waterman (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Linda Ashworth, Committee Secretary
Eddy McClure, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SJ 10, 2/1/2001; SB 313,
2/1/2001
Executive Action: SB 36, SB 260, SB 233, SB 273,
SJ 10, SB 111

HEARING ON SJ 10

Sponsor: **SEN. SAM KITZENBERG, SD 48, Glasgow**

Proponents: **Dustin Stewart, Associated Students of Montana
Tech
Bill Snoddy, Self, Helena**

Opponents: None

Opening Statement by Sponsor:

SEN. SAM KITZENBERG opened on SJ 10. He stated that SJ 10 would urge the Board of Regents and the Chancellor of Montana Tech of the University of Montana to direct the School of Mines and Engineering to develop an economical process for mining gold and silver that does not require the use of cyanide heap leaching. It would also encourage students attending the School of Mines and Engineering, in the fields of geological engineering, metallurgical and materials engineering and mining engineering at Montana Tech of the University of Montana, to participate in an internship program at a Montana gold or silver operation.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 2}

Proponents' Testimony:

Dustin Stewart, Associated Students of Montana Tech, rose in support of SJ 10. **Mr. Stewart** stated that the students are in support of SJ 10 because it provides additional opportunities for advancement in their field.

Bill Snoddy, representing himself, indicated that Initiative 137 devastated the mining industry in Montana but at the same time gave the state the opportunity to become a leader in new processes to recover gold and silver. **Mr. Snoddy** contended that SJ 10 would be a positive influence on the mining industry in Montana.

{Tape : 1; Side : A; Approx. Time Counter : 2 - 6}

Opponents' Testimony: None

Informational Testimony:

Bill Johnson, University of Montana, stated that there is ongoing research into mining technology, including cyanide leaching at Montana Tech. Ninety percent of the students at Montana Tech are currently involved in internships.

James D. Jensen, Executive Director of the Environmental Information Center, explained the attitude of the mining industry after the passage of Initiative 137. He informed the committee

that much of the information has not been entirely reliable. During the last two years the Montana mining industry has experienced the largest expansion in its history. Mining is not dead and continues to show growth in the state.

{Tape : 1; Side : A; Approx. Time Counter : 6 - 9}

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER questioned whether students are currently being encouraged to participate in intern programs. **SEN. KITZENBERG** clarified that this had been brought to his attention since the introduction of the bill. He related that most internships were done with a mining company that pays for the internship. **SEN. KITZENBERG** had envisioned something akin to a student teaching assignment where the student would spend a semester working in a mining operation, possibly at their own expense, in order to obtain their degree.

SEN. DEBBIE SHEA sought information regarding the number of students enrolled in the mining program at Montana Tech and questioned whether that number had dropped from previous years. **Dustin Stewart** asked that the question be redirected to **Bill Johnson**. **Mr. Johnson** related there had not been a decline in enrollment.

SEN. SHEA hoped that this resolution would encourage more students to enter the field of mining. **Mr. Johnson** theorized that the placement of students in the field of mining engineering depended on student interests and the salaries. **Mr. Johnson** reported that many students currently participate in multiple internships and are well paid for the experience.

{Tape : 1; Side : A; Approx. Time Counter : 9 - 19}

Closing by Sponsor:

SEN. KITZENBERG closed on SJ 10. He stated that people come into Montana, make an investment and take the resources elsewhere. He declared that we are sitting on the resources in this state and need to utilize them to the fullest extent.

{Tape : 1; Side : A; Approx. Time Counter : 19 - 21}

HEARING ON SB 313

Sponsor: **SEN. FRED THOMAS, SD 31, Stephenville**

Proponents: **Lance Melton, Montana School Boards Association**
 Dave Puyear, Montana Rural Education Association
 Loran Frazier, School Administrators of Montana
 Wayne Buchanan, Board of Public Education
 Erik Burke, Montana Education Association/Montana
 Federation of Teachers

Opponents: **Mike Strand, Montana Independent**
 Telecommunications

Opening Statement by Sponsor:

SEN. FRED THOMAS opened on SB 313. He reported that SB 313 would set up technology, acquisition and depreciation funds for the school districts in the state. He indicated this proposal would put the school districts in a position to keep educational systems as current as possible, particularly in the area of technology.

SEN. THOMAS clarified that the acquisition fund would develop a systematic process for the depreciation and replacement of existing equipment in the schools. It would also provide for the development of a voluntary systematic depreciation process, which was based on the successful bus depreciation fund established by the legislature many years ago.

The fund is based on local control and the establishment of the fund would be voluntary, with the approval of the voters. The decisions of allocations would be with the local school board. Only local taxes would be used in the depreciation fund. The fund is designed to be an ongoing affair, after being initially approved by the voters. Any additional increases would have to have further voter approval.

{Tape : 1; Side : A; Approx. Time Counter : 21 - 24}

Proponents' Testimony:

Lance Melton, Montana School Boards Association, rose in support of SB 313. **Mr. Melton** submitted written testimony which included suggestions for a technical amendment to the bill, **EXHIBIT (eds29a01)**.

Dave Puyear, Montana Rural Education Association, avowed support for SB 313, as amended. **Mr. Puyear** argued that schools must address the needs of the business world when developing the technological skills and attributes that students will need after graduation. **Mr. Puyear** clarified this bill encourages school

districts to think long term when replacing outdated equipment. **Mr. Puyear** maintained the bill directly addresses the Governor's issues on economic development.

{Tape : 1; Side : A; Approx. Time Counter : 24 - 32}

Loran Frazier, School Administrators of Montana, stated support for SB 313. He reminded the committee that technology is the wave of the future and with budgets tightening SB 313 would be a vehicle for school districts to update technology.

Wayne Buchanan, Board of Public Education, called attention to the fact that the past three legislative sessions had upgraded the technology, at the state level, and had also provided a depreciation fund for maintaining that level. He held that it is just as important for the legislature to give schools the same opportunity, as the state of Montana, to maintain a high level of technology.

Erik Burke, Montana Education Association/Montana Federation of Teachers, declared strong support of SB 313. He reminded the committee that technology is being used throughout the curriculum. This bill would give districts a planning device to maintain a high level of technology.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 10}

Opponents' Testimony:

Mike Strand, Montana Independent Telecommunication Systems, cited opposition to SB 313. His concern pertained to the universal service fund in section 2-5. If those references were deleted, he would change his position on the bill.

{Tape : 1; Side : B; Approx. Time Counter : 10 - 11}

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. JIM ELLIOT stated his concern over funding avowing different school districts would have different abilities to raise revenue. He wondered if this would skirt the constitutional requirement to provide an equal education for every child. **Dave Puyear** clarified that the areas that have been equalized have focused around the general fund and this would be an area outside the general fund.

SEN. ELLIOT surmised **Mr. Puyear's** statement meant that schools would do anything to provide a quality education for the students. **Mr. Puyear** agreed that schools are desperate in the area of technology and this bill would try to address and improve this arena.

SEN. ELLIOT hypothesized that the bill had been submitted because the state had not been forthcoming with money. **Mr. Puyear** agreed, stating that the general fund budgets are stretched so thin there is no money available for updating technology.

SEN. ELLIOT restated the question pertaining to the constitutionality of allowing school districts to obtain the best technology they could afford. **Lance Melton** responded that HB 667, in 1993, provided equalization of the general fund, transportation fund, retirement levies and building programs. Beyond that school districts work with an excess of twenty different funds that the legislature had statutorily segregated and identified for particular purposes. He contended that this bill proposes something similar to the building reserve levy. It is different because the bill would approve an ongoing levy, once approved by the voters, as opposed to a building reserve levy of five years.

SEN. ELLIOT suggested that teacher's salaries could be segregated from the general fund which could also circumvent the argument concerning equalization. **Mr. Melton** contended that the court decision specifically discussed personnel expenses. He maintained that if the money is not going to come from the state level, school districts have to be able to pursue funding from other areas in order to provide a quality education.

SEN. ELLIS questioned the allowance of the 150% that would be in the account, alleging that the cost of technology equipment had been decreasing. **Lance Melton** explained that using 150% was a function of cutting and pasting language from an existing statute that had been successful. He asserted that if the committee suggested another number he would be open to discussing it.

SEN. JOHN BOHLINGER proclaimed support for the efforts of **SEN. THOMAS** to come up with a method to replace outdated technology equipment but queried why money could not be transferred from the universal access account. **Mr. Melton** clarified that those specific funds were approved by the legislature in 1997 as a back-up plan to the federal e-rate discount. When the e-rate discount had been exhausted the school districts could apply for addition funds from that account.

{Tape : 1; Side : B; Approx. Time Counter : 11 - 22}

Closing by Sponsor:

SEN. THOMAS closed on SB 313. He reminded the committee that business organizations and state government are constantly upgrading technology equipment. Schools deserve the same consideration as any business. **SEN. THOMAS** agreed with the amendments that were proposed. He attested this bill would not fix school funding, but reiterated that this is a special area that needs to be constantly upgraded.

{Tape : 1; Side : B; Approx. Time Counter : 22 - 25}

EXECUTIVE ACTION ON SB 36

CHAIRMAN GLASER reported that **SEN. AL BISHOP** had requested that SB 36 be tabled.

Motion/Vote: **SEN. ELLIS** moved that **SB 36 BE TABLED**. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 25 - 26}

EXECUTIVE ACTION ON SB 260

Motion: **SEN. MIGNON WATERMAN** moved that **SB 260 BE AMENDED** (SB026001.aem), **EXHIBIT**(eds29a02).

Discussion:

CHAIRMAN GLASER informed the committee that the amendments would correct technical problems in the bill.

Eddye McClure explained the amendments would address the two technical amendments at the bottom of the fiscal note. **Lance Melton** indicated the amendments would reinsert existing laws, allowing the Office of Public Instruction to order the apportionment.

Vote: **SEN. WATERMAN'S** motion that **SB 260 BE AMENDED** carried 13-1 with Cobb voting no.

Motion/Vote: **SEN. WATERMAN** moved that **SB 260 DO PASS AS AMENDED**. Motion passed 12-2 with Cobb and Elliott voting no.

{Tape : 1; Side : B; Approx. Time Counter : 26 - 27}

EXECUTIVE ACTION ON SB 233

CHAIRMAN GLASER reported that the sponsor of SB 233 asked the committee to table the bill

Motion/Vote: SEN. WATERMAN moved that SB 233 BE TABLED. Motion carried 10-4 with Bohlinger, Butcher, Ellis, and Ryan voting no.

{Tape : 1; Side : B; Approx. Time Counter : 27 - 28}

EXECUTIVE ACTION ON SB 273

Motion: SEN. ELLIS moved that SB 273 BE AMENDED (SB027301.aem), **EXHIBIT** (eds29a03).

Discussion:

CHAIRMAN GLASER stated his intention of passing an amended bill and then asking for a new fiscal note on the amended bill. **SEN. GLASER** explained that the amendment would strike the first \$500.00 for the employer and the graduate. The intent would be to remove the fiscal impact for the next two years.

SEN. ELLIOT wondered if **SEN. COREY STAPLETON** would like the fiscal note reduced to zero. **CHAIRMAN GLASER** stated it would be **SEN. STAPLETON'S** desire that the fiscal note reflect the amended bill.

SEN. ELLIOT asked for a clarification on the purpose of the bill. **CHAIRMAN GLASER** explained the proposals in SB 273.

SEN. ELLIOT examined the possibility of filtering the money into the Montana State University system. **SEN. ELLIOT** informed the committee that there were people in the audience from the University of Montana that opposed SB 273.

Vote: SEN. ELLIS'S motion that SB 273 BE AMENDED (SB027301.aem) **EXHIBIT** (3). Motion carried 12-2 with Elliott and Kitzenberg voting no.

Motion/Vote: SEN. WELLS moved that SB 273 BE AMENDED (SB27301.alh), **EXHIBIT** (eds29a04). Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 28 - 32}

Motion: SEN. WATERMAN moved that SB 273 be amended TO STRIKE THE TAX CREDIT FOR THE EMPLOYER.

Discussion:

SEN. WATERMAN expressed her concerns regarding the employment situation in the state of Montana stating that the incentive should be aimed at keeping Montana graduates in the state. She did not think businesses need incentives to hire Montana graduates.

SEN. BOHLINGER asked that the thousand dollars be added to the amount the student would receive.

Substitute Motion: **SEN. BOHLINGER** made a substitute motion that **SB 273 BE AMENDED TO STRIKE THE TAX CREDIT FOR THE EMPLOYER AND INCREASE THE 24 MONTH STIPEND, FOR THE EMPLOYEE, FROM \$1000.00 TO \$2000.00.**

Discussion:

SEN. WATERMAN clarified that the student would receive \$2000.00 and the employer would receive nothing.

CHAIRMAN GLASER expressed that **SEN. STAPLETON** would not be favorable to this idea and said that he would oppose this amendment.

SEN. WELLS felt that the employer should receive the incentive.

SEN. ELLIOT stated his support for **SEN. BOHLINGER'S** motion.

SEN. ELLIS pointed out that there are 1500 applications per year for teacher certificates and only one-third of the 1300 graduates from Montana institutions apply in the state.

SEN. ED BUTCHER advised that the issue be saved for the next session when there may be money available to fund it.

Vote: **SEN. BOHLINGER'S** motion that **SB 273 BE AMENDED TO STRIKE THE TAX CREDIT FOR THE EMPLOYER AND INCREASE THE 24 MONTH STIPEND, FOR THE EMPLOYEE, FROM \$1000.00 TO \$2000.00** failed 6-7 with Bohlinger, Ellingson, Elliott, Kitzenberg, Ryan, and Waterman voting aye.

Motion/Vote: **SEN. WATERMAN** moved that **SB 273 BE TABLED.** Motion failed 6-8 with Butcher, Cobb, Ellingson, Elliott, Ellis, and Waterman voting aye.

Vote: SEN. WATERMAN'S motion that SB 273 BE AMENDED TO REMOVE THE TAX CREDIT FOR THE EMPLOYERS failed 6-7 with Butcher, Ellingson, Elliott, Ellis, Shea, and Waterman voting aye.

Discussion:

SEN. BUTCHER wondered if he should move do pass on the bill and add the fiscal note later.

CHAIRMAN GLASER explained that a problem would be created because a bill can not be reported out of committee without a proper fiscal note. He expressed that he would like to see the bill stay where it is and requested that Eddy McClure request a new fiscal note.

EXECUTIVE ACTION ON SJ 10

Motion/Vote: SEN. WATERMAN moved that SJ 10 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB 111

Discussion:

SEN. ELLIS reported on the amendments to SB 111, (SB011101.aem) EXHIBIT (eds29a05). He explained that the body of the bill would be in the amendment. The amendments contain recommendations from Attorney Michael Daulum as well as suggestions from the sub-committee.

SEN. BOHLINGER asked if a high school district could be transferred leaving the elementary district. Eddy McClure surmised they would transfer both at the same time.

SEN. BUTCHER hypothesized districts would be forced to close their elementary schools in order to transfer the high school.

SEN. ELLIS requested Lance Melton answer the question. Mr. Melton stated that joint districts or K-12 districts would have to transfer both properties as referred to in Sub-section 9 and Sub-section 10.

SEN. ELLIS asked for further clarification on Sub-section 10 regarding petitions seeking to transfer out of or into a K-12 district. Mr. Melton stated his concerns of allowing districts to come into a K-12 district which would then create another district, which is currently prohibited by law.

SEN. RYAN asked if the amendments have improved the bill.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 32}

Lance Melton believed that the amendments address the constitutional issues cited by the court.

SEN. ELLIS asked if this would address the situation that instigated this law, two years ago, where you gerrymander a district because one person wants to move out. **Mr. Melton** stated that the bill would improve existing law by requiring a two-thirds majority vote for any territory that is going to be proposed for transfer but the issue of gerrymandering still exists. The 2/3 requirement works very well when referring to an entire neighborhood. But the 2/3's would be irrelevant when referring to a single household.

SEN. ELLIS wanted to know if an amendment would stop gerrymandering or if it would erode the rest of the bill. **Mr. Melton** did not know how the issue could be addressed without arbitrarily setting limits on the number of households that could transfer property.

CHAIRMAN GLASER stated his belief that the committee needs the advice and council of the sub-committee and wondered what the three members of the sub-committee thought the committee should do.

Motion: **SEN. ELLIS** moved that **SB 111 BE AMENDED, (SB011101.aem)**.

Discussion:

SEN. RYAN referred to Page 1, Number 4 and asked if one particular area was excluded. **SEN. ELLINGSON** clarified that this addresses one particular school district and what would happen to that particular school district as a result of the amendment to the bill. He explained there is a prohibition that a petition to transfer can only be made once within a two year period of time. The district that had lost the case, because of a fault in the law, had the opportunity to proceed under the new law and not be forced to wait for a period of two years.

Vote: **SEN. ELLIS'** motion that **SB 111 BE AMENDED (SB011101.aem)**, passed unanimously.

Motion: **SEN. ELLIS** moved that **SB 111 DO PASS AS AMENDED**.

Discussion:

SEN. BUTCHER asked how this bill would affect the people in the Simms/Power area. **SEN. ELLIS** explained the section stating that a transfer could not include more than 10% of the property was changed to 25% which would accommodate the people living in the Simms/Power area.

SEN. WATERMAN wondered what would happen if each of the two county superintendents rule in opposite directions. **SEN. ELLIS** stated that the bill submits there would be a third party involved.

Vote: **SEN. ELLIS'** motion that **SB 111 DO PASS AS AMENDED** carried **11-2** with **Elliott and Shea** voting no.

ADJOURNMENT

Adjournment: 5:25 P.M.

SEN. BILL GLASER, Chairman

LINDA ASHWORTH, Secretary

BG/LA

EXHIBIT (eds29aad)